

**BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

JEFFREY F. VOGEL A.K.A. JEFFREY
FLOYCE VOGEL A.K.A. JEFF VOGEL
PO Box 8422
Waco, TX 76714
Registered Nurse License No. 405920

Respondent.

Case No. 2008-42

O.A.H. No.

DECISION AND ORDER

The attached Stipulated Surrender of License and Order is hereby adopted by the Board of Registered Nursing, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on March 24, 2008.

It is so ORDERED February 22, 2008



FOR THE BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS

1 EDMUND G. BROWN JR., Attorney General
of the State of California
2 KAREN B. CHAPPELLE
Supervising Deputy Attorney General
3 SHAWN P. COOK, State Bar No. 117851
Deputy Attorney General
4 300 So. Spring Street, Suite 1702
Los Angeles, CA 90013
5 Telephone: (213) 897-9954
Facsimile: (213) 897-2804
6

7 Attorneys for Complainant

8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11 In the Matter of the Accusation Against:

Case No. 2008-42

12 JEFFREY F. VOGEL A.K.A. JEFFREY
13 FLOYCE VOGEL A.K.A. JEFF VOGEL
PO Box 8422
14 Waco, TX 76714
Registered Nurse License No. 405920

O.A.H. No.

**STIPULATED SURRENDER OF
LICENSE AND ORDER**

15 Respondent.

16
17 IT IS HEREBY STIPULATED AND AGREED by and between the parties in this
18 proceeding that the following matters are true:

19 PARTIES

20 1. Ruth Ann Terry, M.P.H., R.N. (Complainant) is the Executive Officer of
21 the Board of Registered Nursing. She brought this action solely in her official capacity and is
22 represented in this matter by Edmund G. Brown Jr., Attorney General of the State of California,
23 by Shawn P. Cook, Deputy Attorney General.

24 2. Jeffrey F. Vogel a.k.a. Jeffrey Floyce Vogel a.k.a. Jeff Vogel (Respondent)
25 is representing himself in this proceeding and has chosen not to exercise his right to be
26 represented by counsel.

27 3. On or about September 30, 1986, the Board of Registered Nursing issued
28 Registered Nurse License No. 405920 to Jeffrey F. Vogel a.k.a. Jeffrey Floyce Vogel a.k.a. Jeff

1 Vogel (Respondent). The license was in full force and effect at all times relevant to the charges
2 brought in Accusation No. 2008-42 and will expire on January 31, 2008, unless renewed.

3 JURISDICTION

4 4. Accusation No. 2008-42 was filed before the Board of Registered Nursing
5 (Board), Department of Consumer Affairs, and is currently pending against Respondent. The
6 Accusation and all other statutorily required documents were properly served on Respondent on
7 August 20, 2007. Respondent timely filed his Notice of Defense contesting the Accusation. A
8 copy of Accusation No. 2008-42 is attached as exhibit A and incorporated herein by reference.

9 ADVISEMENT AND WAIVERS

10 5. Respondent has carefully read, and understands the charges and allegations
11 in Accusation No. 2008-42. Respondent also has carefully read, and understands the effects of
12 this Stipulated Surrender of License and Order.

13 6. Respondent is fully aware of his legal rights in this matter, including the
14 right to a hearing on the charges and allegations in the Accusation; the right to be represented by
15 counsel, at his own expense; the right to confront and cross-examine the witnesses against him;
16 the right to present evidence and to testify on his own behalf; the right to the issuance of
17 subpoenas to compel the attendance of witnesses and the production of documents; the right to
18 reconsideration and court review of an adverse decision; and all other rights accorded by the
19 California Administrative Procedure Act and other applicable laws.

20 7. Respondent voluntarily, knowingly, and intelligently waives and gives up
21 each and every right set forth above.

22 CULPABILITY

23 8. Respondent admits the truth of each and every charge and allegation in
24 Accusation No. 2008-42, agrees that cause exists for discipline and hereby surrenders his
25 Registered Nurse License No. 405920 for the Board's formal acceptance.

26 9. Respondent understands that by signing this stipulation he enables the
27 Board to issue an order accepting the surrender of his Registered Nurse License without further
28 process.

1 against Respondent. This stipulation constitutes a record of the discipline and shall become a
2 part of Respondent's license history with the Board.

3 15. Respondent shall lose all rights and privileges as a registered nurse in
4 California as of the effective date of the Board's Decision and Order.

5 16. Respondent shall cause to be delivered to the Board both his wall and
6 pocket license certificate on or before the effective date of the Decision and Order.

7 17. Respondent fully understands and agrees that if he ever files an application
8 for licensure or a petition for reinstatement in the State of California, the Board shall treat it as a
9 petition for reinstatement. Respondent must comply with all the laws, regulations and
10 procedures for reinstatement of a revoked license in effect at the time the petition is filed, and all
11 of the charges and allegations contained in Accusation No. 2008-42 shall be deemed to be true,
12 correct and admitted by Respondent when the Board determines whether to grant or deny the
13 petition.

14 18. Upon reinstatement of the license, Respondent shall pay to the Board costs
15 associated with its investigation and enforcement pursuant to Business and Professions Code
16 section 125.3 in the amount of Five Thousand Ninety Four Dollars and No Cents (\$5,094).
17 Respondent shall be permitted to pay these costs in a payment plan approved by the Board.

18 19. Should Respondent ever apply or reapply for a new license or certification,
19 or petition for reinstatement of a license, by any other health care licensing agency in the State of
20 California, all of the charges and allegations contained in Accusation, No. 2008-42 shall be
21 deemed to be true, correct, and admitted by Respondent for the purpose of any Statement of
22 Issues or any other proceeding seeking to deny or restrict licensure.

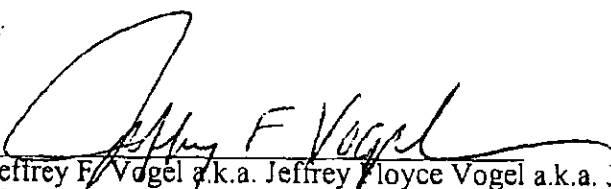
23 20. Respondent shall not apply for licensure or petition for reinstatement for
24 two (2) years from the effective date of the Board of Registered Nursing's Decision and Order.

25
26 ACCEPTANCE

27 I have carefully read the Stipulated Surrender of License and Order. I understand
28 the stipulation and the effect it will have on my Registered Nurse License. I enter into this

1 Stipulated Surrender of License and Order voluntarily, knowingly, and intelligently, and agree to
2 be bound by the Decision and Order of the Board of Registered Nursing.

3
4 DATED: 11-26-2007

5
6 
7 Jeffrey F. Vogel a.k.a. Jeffrey Floyce Vogel a.k.a. Jeff
8 Vogel (Respondent)
9 Respondent

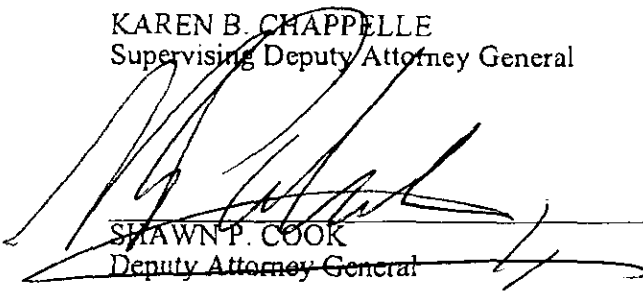
10 ENDORSEMENT

11 The foregoing Stipulated Surrender of License and Order is hereby respectfully
12 submitted for consideration by the Board of Registered Nursing of the Department of Consumer
13 Affairs.

14
15 DATED: 11-27-07

16
17 EDMUND G. BROWN JR., Attorney General
of the State of California

18 KAREN B. CHAPPELLE
19 Supervising Deputy Attorney General

20 
21 SHAWN P. COOK
22 Deputy Attorney General

23 Attorneys for Complainant

24
25 DOJ Matter ID: LA2006601147
60255283.wpd

Exhibit A
Accusation No. 2008-42

1 EDMUND G. BROWN JR., Attorney General
of the State of California
2 JENNIFER S. CADY
Supervising Deputy Attorney General
3 SHAWN P. COOK, State Bar No. 117851
Deputy Attorney General
4 California Department of Justice
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 897-9954
6 Facsimile: (213) 897-2804

7 Attorneys for Complainant

8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11 In the Matter of the Accusation Against:

12 JEFFREY F. VOGEL
a.k.a. JEFFREY FLOYCE VOGEL
13 a.k.a. JEFF VOGEL
PO Box 8422
14 Waco, TX 76714

15 Registered Nurse License No. 405920

16 Respondent.

Case No. 2008-42

O.A.H. No.

A C C U S A T I O N

17
18 Complainant alleges:

19 PARTIES

20 1. Ruth Ann Terry, M.P.H, R.N (Complainant) brings this Accusation solely
21 in her official capacity as the Executive Officer of the Board of Registered Nursing, Department
22 of Consumer Affairs (Board).

23 2. On or about September 30, 1986, the Board issued Registered Nurse
24 License No. 405920 to Jeffrey F. Vogel a.k.a. Jeffrey Floyce Vogel a.k.a. Jeff Vogel
25 (Respondent). The Registered Nurse License was in full force and effect at all times relevant to
26 the charges brought herein and will expire on January 31, 2008, unless renewed.

27 JURISDICTION

28 3. This Accusation is brought before the Board, under the authority of the

1 following laws. All Section references are to the Business and Professions Code unless
2 otherwise indicated.

3 4. Section 2750 provides, in pertinent part, that the Board may discipline any
4 licensee, including a licensee holding a temporary or an inactive license, for any reason provided
5 in Article 3 (commencing with section 2750) of the Nursing Practice Act.

6 5. Section 2764 provides, in pertinent part, that the expiration of a license
7 shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the
8 licensee or to render a decision imposing discipline on the license. Under Section 2811,
9 subdivision (b), the Board may renew an expired license at any time within eight years after the
10 expiration.

11 6. Section 2761 states, in pertinent part:

12 "The board may take disciplinary action against a certified or licensed nurse or
13 deny an application for a certificate or license for any of the following:

14 "(a) Unprofessional conduct, which includes, but is not limited to, the following:

15

16 "(d) Violating or attempting to violate, directly or indirectly, or assisting in or
17 abetting the violating of, or conspiring to violate any provision or term of this chapter [the
18 Nursing Practice Act] or regulations adopted pursuant to it.

19

20 "(f) Conviction of a felony or of any offense substantially related to the
21 qualifications, functions, and duties of a registered nurse, in which event the record of the
22 conviction shall be conclusive evidence thereof. . . ."

23 7. Section 2762 states, in pertinent part:

24 "In addition to other acts constituting unprofessional conduct within the meaning
25 of this chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed
26 under this chapter to do any of the following:

27

28 "(b) Use any controlled substance as defined in Division 10 (commencing with

1 Section 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as
2 defined in Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or
3 injurious to himself or herself, any other person, or the public or to the extent that such use
4 impairs his or her ability to conduct with safety to the public the practice authorized by his or her
5 license.

6 "(c) Be convicted of a criminal offense involving the prescription, consumption,
7 or self-administration of any of the substances described in subdivisions (a) and (b) of this
8 section, or the possession of, or falsification of a record pertaining to, the substances described in
9 subdivision (a) of this section, in which event the record of the conviction is conclusive evidence
10 thereof.

11 "(d) Be committed or confined by a court of competent jurisdiction for
12 intemperate use of or addiction to the use of any of the substances described in subdivisions (a)
13 and (b) of this section, in which event the court order of commitment or confinement is prima
14 facie evidence of such commitment or confinement. . . ."

15 8. Section 490 states:

16 "A board may suspend or revoke a license on the ground that the licensee has been
17 convicted of a crime, if the crime is substantially related to the qualifications, functions, or duties
18 of the business or profession for which the license was issued. A conviction within the meaning
19 of this section means a plea or verdict of guilty or a conviction following a plea of nolo
20 contendere. Any action which a board is permitted to take following the establishment of a
21 conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has
22 been affirmed on appeal, or when an order granting probation is made suspending the imposition
23 of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the
24 Penal Code."

25 9. California Code of Regulations, title 16, section 1444, states, in pertinent
26 part:

27 "A conviction or act shall be considered to be substantially related to the
28 qualifications, functions or duties of a registered nurse if to a substantial degree it evidences the

1 present or potential unfitness of a registered nurse to practice in a manner consistent with the
2 public health, safety, or welfare. Such convictions or acts shall include but not be limited to the
3 following:

4 "(a) Assaultive or abusive conduct"

5 10. Section 118, subdivision (b), provides that the suspension / expiration /
6 surrender / cancellation of a license shall not deprive the Board of jurisdiction to proceed with a
7 disciplinary action during the period within which the license may be renewed, restored, reissued
8 or reinstated.

9 11. Section 125.3 provides, in pertinent part, that the Board may request the
10 administrative law judge to direct a licensee found to have committed a violation or violations
11 of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
12 enforcement of the case.

13 FIRST CAUSE FOR DISCIPLINE

14 (Convictions of Substantially Related Crimes)

15 12. Respondent is subject to disciplinary action under Sections 490 and 2761,
16 subdivision (f), on the grounds that Respondent was convicted of crimes substantially related to
17 the qualifications, functions, or duties of a registered nurse, as follows:

18 13. Criminal Threats

19 On or about October 12, 2005, in a criminal proceeding entitled *The People of the*
20 *State of California v. Jeffrey Floyce Vogel* in San Luis Obispo Superior Court, Case No.
21 M372359, Respondent was convicted on a plea of *nolo contendere* for violating Penal Code
22 section 422 (criminal threats), a misdemeanor. In addition to fines and 3 years probation, the
23 court ordered Respondent to continue his alcohol treatment, and abstain from use of drugs or
24 alcohol.

25 A. The circumstances of the conviction are that on or about May 9, 2005, San
26 Luis Obispo Police Department officers responded to a call that a man with a rifle was inside a
27 residence. Respondent was a house guest at the residence of Mr. Jones. Respondent, while
28 intoxicated, made verbal threats and threatened bodily harm to Mr. Jones. Respondent

1 repeatedly opened and closed the breech action on a rifle in an adjacent room to where Mr. Jones
2 was. The officers arrested Respondent and confiscated two rifles from the premises.

3 14. Public Intoxication

4 On or about April 12, 2005, in a criminal proceeding entitled *The People of the*
5 *State of California v. Jeffrey Floyce Vogel* in San Luis Obispo Superior Court, Case No.
6 M36836, Respondent was convicted on a plea of *nolo contendere* for violating Penal Code
7 section 647(f) (public intoxication), a misdemeanor. Respondent was denied probation and
8 ordered to serve 2 days jail time.

9 A. The circumstances of the conviction are that on or about January 15, 2005,
10 San Luis Obispo County Sheriff's Department officers assigned to security at the San Luis
11 Obispo Airport had been alerted that a man who was inebriated, or apparently debilitated by a
12 medical condition, was arriving to board a plane. Respondent arrived at a terminal counter and
13 was told that he had missed his flight. Respondent was wobbly on his feet, with glazed eyes and
14 was unable to discern his luggage from others. Respondent reeked of alcohol, slurred his
15 speech, and admitted to police that he had been drinking. The officers arrested Respondent
16 because he presented a safety risk to himself due to his extreme intoxication.

17 15. Second DUI

18 On or about February 24, 2003, in a criminal proceeding entitled *The People of*
19 *the State of California v. Jeffrey Floyce Vogel* in San Luis Obispo Superior Court, Case No.
20 M335096, Respondent was convicted on a plea of *nolo contendere* for violating Vehicle Code
21 section 23152(b) (driving a vehicle while having a greater than 0.08% blood alcohol content
22 level), a misdemeanor. The court ordered Respondent to 12 days consecutive weekend jail time,
23 3 years probation, fines, and to attend a second offender DUI program.

24 A. The circumstances of the conviction are that on or about November 13,
25 2002, California Highway Patrol officers, in Templeton, California, arrested Respondent after
26 observing him sitting on a road's dirt shoulder with minor abrasions to his forehead.
27 Respondent had driven his vehicle over an embankment, where it rolled down the hill and came
28 to rest on its wheels. Police determined that Respondent had been driving his vehicle while

1 intoxicated. When the officers questioned Respondent about abrasions to his forehead, and
2 whether he needed medical treatment, Respondent admitted to the police that he had been
3 unconscious for the past two hours and requested an ambulance. During questioning by police,
4 Respondent was belligerent and threatened the arresting officer. Respondent's breath blood
5 alcohol content level (BAC) was tested at 0.21% and 0.20%, and his subsequent blood BAC was
6 tested at 0.19%.

7 16. First DUI

8 On or about October 10, 2000, in a criminal proceeding entitled *The People of the*
9 *State of California v. Jeffrey Floyce Vogel* in San Luis Obispo Superior Court, Case No.
10 M300114, Respondent was convicted on a plea of *nolo contendere* for violating Vehicle Code
11 section 23152(b) (driving a vehicle while having a greater than 0.08% blood alcohol content
12 level), a misdemeanor, with enhanced sentencing provisions, for having a BAC greater than .15%
13 pursuant to Veh. Code section 23578. The court ordered Respondent to serve 4 days jail time, 3
14 years probation, fines, and attend a first offender driving while intoxicated program.

15 A. The circumstances of the conviction are that on or about July 16, 2000,
16 Atascadero Police Department officers responded to a traffic collision wherein Respondent was
17 arrested for driving under the influence of alcohol and not having proof of insurance.
18 Respondent's BAC was tested at 0.22%.

19 SECOND CAUSE FOR DISCIPLINE

20 (Assaultive and / or Abusive Conduct)

21 17. Respondent is subject to disciplinary action under Section 2761,
22 subdivision (a), on the grounds of unprofessional conduct as defined in California Code of
23 Regulations, title 16, section 1444, subdivision (a), in that on or about May 9, 2005,
24 Respondent's conduct was assaultive and / or abusive based on the allegations of paragraph 13A.

25 THIRD CAUSE FOR DISCIPLINE

26 (Convictions Involving Self-Administration of Alcohol)

27 18. Respondent is subject to disciplinary action under Section 2761,
28 subdivision (a), and 2762, subdivision (c), on the grounds of unprofessional conduct, in that on

1 or about October 10, 2000, February 24, 2003, April 12, 2005, and October 12, 2005,
2 Respondent was convicted based on his conduct that was influenced by his consumption or self-
3 administration of alcohol, as more fully described above in paragraphs 13 A, 14A, 15A and 16A.

4 FOURTH CAUSE FOR DISCIPLINE

5 (Dangerous Use of Alcohol)

6 19. Respondent is subject to disciplinary action under Section 2761,
7 subdivision (a), and 2762, subdivision (b), on the grounds of unprofessional conduct, in that on
8 or about July 16, 2000, November 13, 2002, and January 15, 2005, and May 9, 2005, Respondent
9 administered alcohol to himself to an extent or in a manner dangerous or injurious to himself,
10 any person, or the public, as more fully described above in paragraphs 13A, 14A, 15A and 16A.

11 FIFTH CAUSE FOR DISCIPLINE

12 (Commitment for Intemperate Use of Alcohol)

13 20. Respondent is subject to disciplinary action under Section 2761,
14 subdivision (a), and 2762, subdivision (d), on the grounds of unprofessional conduct, in that on
15 or about October 10, 2000, February 24, 2003, April 12, 2005, and October 12, 2005,
16 Respondent was committed or confined by a court of competent jurisdiction for the intemperate
17 use of, or addiction to alcohol.

18 DISCIPLINE CONSIDERATIONS / FACTORS IN AGGRAVATION

19 21. To determine the degree of discipline and as factors in aggravation,
20 Complainant alleges that there was prior discipline of Respondent by the Board in the case
21 entitled *In the Matter of the Accusation Against: Jeffrey F. Vogel, a.k.a. Jeffrey Floyce Vogel,*
22 *a.k.a. Jeff Vogel*, Case No. 96-79, effective March 23, 1997. In the Board's prior decision
23 imposing discipline, it found that Respondent had been abusing alcohol and was in fact under the
24 influence of alcohol at the time he hit his live in partner in the face and pointed a gun at one G.T.,
25 a separate person. Copies of the Decision After Nonadoption and Accusation are attached
26 hereto as Exhibit A, and incorporated herein by reference as though fully set forth.

27 ///

28 ///

1 PRAYER

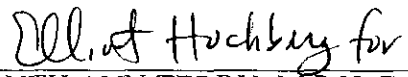
2 WHEREFORE, Complainant requests that a hearing be held on the matters herein
3 alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

4 1. Revoking or suspending Registered Nurse License No. 405920, issued to
5 Jeffrey F. Vogel a.k.a. Jeffrey Floyce Vogel a.k.a. Jeff Vogel.

6 2. Ordering Jeffrey Floyce Vogel to pay the Board of Registered Nursing the
7 reasonable costs of the investigation and enforcement of this case, pursuant to Business and
8 Professions Code section 125.3;

9 3. Taking such other and further action as deemed necessary and proper.

10
11 DATED: 8/3/07

12
13 
14 RUTH ANN TERRY, M.P.H., R.N.
15 Executive Officer
16 Board of Registered Nursing
17 Department of Consumer Affairs
18 State of California

19
20 Complainant

21 LA2006601147
22 60211021.wpd
23 4/3/2006dmm
24
25
26
27
28

EXHIBIT A

DECISION AFTER NONADOPTION and ACCUSATION
Board Case No. 96-79

BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation)	
Against:)	
)	Case No. 96-79
JEFFREY F. VOGEL, aka)	
JEFFREY FLOYCE VOGEL, aka)	OAH No. L-9602148
JEFF VOGEL)	
4590 Arizona Street)	
Atascadero, CA 93422)	
)	
License No. 405920)	
)	
Respondent.)	
<hr/>		

DECISION AFTER NONADOPTION

This matter was heard by Samuel D. Reyes, Administrative Law Judge, Office of Administrative Hearings, at San Luis Obispo, California, on July 2, 1996.

Complainant was represented by Stephen S. Handin, Deputy Attorney General. Respondent was represented by Chris Casciola, Attorney at Law.

Oral and documentary evidence, and evidence by oral stipulation on the record, was received and the matter was thereafter submitted.

The proposed decision of the administrative law judge was submitted to the Board of Registered Nursing (hereinafter "the board") on July 22, 1996. After due consideration thereof, the board declined to adopt said proposed decision and thereafter on September 20, 1996 issued an Order of Nonadoption and subsequently issued an Order Fixing Date for Submission of Written Argument. On November 27, 1996, the board issued an Order Extending Date for Submission of Argument. On January 23, 1997, the board issued an

Order Delaying Decision for a period not to exceed thirty days. The time for filing written argument in this matter having expired, written argument having been filed by respondent, the entire record, including the transcript of said hearing, having been read and considered, pursuant to Government Code Section 11517, the board hereby makes the following decision and order:

FINDINGS OF FACT

1. The accusation was filed by Ruth Ann Terry, R.N., M.P.H., solely in her official capacity as Executive Officer, Board of Registered Nursing ("Board"), Department of Consumer Affairs.

2. On September 30, 1986, the Board issued to respondent registered nurse license number 405920, which license expires on January 31, 1998.

3. a. On September 1, 1994, in the San Luis Obispo Municipal Court, County of San Luis Obispo, respondent was convicted, on his plea of no contest, of violating Penal Code section 417(a)(2) (drawing or exhibiting a firearm), a misdemeanor, and section 273.5(a) (inflicting corporal injury upon a spouse or cohabitant), also a misdemeanor.

b. Imposition of sentence was suspended and respondent was placed on formal supervised probation for three years on terms and conditions which included service of 10 days in county jail, attendance at a thirty-two week domestic violence counseling program, performance of 50 hours of community service, attendance for six months at Alcoholic Anonymous meetings, and submission to random chemical testing and field sobriety testing.

4. The facts and circumstances surrounding the conviction are as follows. Respondent hit Toni Martin, the woman with whom he was living, in the face. He also pointed a gun at Gary Thurston.

5. The crimes for which respondent was convicted are substantially related to the qualifications, functions, and duties

of a registered nurse in that they show a conscious disregard for public health, safety, and welfare within the meaning of Title 16, California Code of Regulations, section 1444.

6. Respondent committed the crimes for which he was convicted while under the influence of alcoholic beverages. Although he did not consume alcohol at work, respondent nevertheless realized after his arrest that consumption of alcoholic beverages had become a problem. He began attending Alcoholics Anonymous meetings after his conviction as mandated by the Court, but continued to do so on a regular basis even after the expiration of the mandated six months. He has not consumed any alcoholic beverages since July 10, 1994.

7. Respondent has complied with the terms of probation, completing the counseling programs and the community service. He continues to comply with the conditions imposed by the Court.

8. Attendance at the domestic violence counseling sessions provided respondent with significant insights and other tools with which to prevent further domestic abuse incidents. He continues to live with his partner and there have been no further incidents.

9. Respondent has been employed at Atascadero State Hospital since 1984. For approximately one and one-half years prior to the conviction he performed one of the most stressful jobs at the Hospital. Respondent's supervisors, who have been very supportive of his rehabilitation efforts, restructured his job, increasing the number of employees who perform it and reducing the level of stress each individual must endure.

10. Respondent has discharged his duties at Atascadero in a competent manner. He has not been accused of violence against any patient. His supervisors have given him above-average written evaluations.

11. Fifteen of respondent's coworkers wrote letters attesting to his character and ability.

12. Absent challenge by respondent to the figures presented at the hearing by complainant, the following are found to be the reasonable costs of investigation and prosecution of this matter:

Investigative services from the Division of Investigation		\$1,628.00
Expert witness costs		223.00
Attorney General's Costs		
Deputy Attorney General	\$367.50	
Paralegal	143.00	<u>510.50</u>
TOTAL		2,361.50

13. Except for those previously addressed in this Decision, all other allegations in the accusation are found to be unproved or surplusage.

* * * * *

Pursuant to the foregoing findings of fact, the board makes the following determination of issues:

DETERMINATION OF ISSUES

1. Grounds exist for the suspension or revocation of respondent's license pursuant to Business and Professions Code sections 490 and 2761(f) in that he was convicted of crimes substantially related to the qualifications, functions, and duties of a registered nurse, by reason of finding of fact numbers 3 through 5.

2. Grounds exist for the suspension or revocation of respondent's license pursuant to Business and Professions Code section 2761(a) in that he engaged in unprofessional conduct, by reason of finding of fact numbers 3 through 5 and determination of issues number 1.

3. Respondent presented significant evidence of mitigation and rehabilitation. The crimes occurred during a period in respondent's life in which he was under very stressful conditions and in which he was abusing alcoholic beverages. Respondent has benefited from counseling and has remained sober. Continued licensure under appropriate conditions is therefore warranted.

4. Conditions addressing substance abuse are necessary in that respondent was under the influence of alcohol when he hit his live-in-partner in the face and pointed a gun at Gary Thurston. Additionally, conditions addressing respondent's mental stability and impulse control difficulties are necessary in light of the above convictions.

5. Respondent's argument that no additional probation should be imposed in light of the continuing monitoring by the San Luis Obispo County Probation Department has been considered. The goal of the licensing scheme administered by the Board is the protection of the consuming public, a goal minimally shared by the criminal system. Moreover, the Board possesses monitoring expertise in the nursing area which surpasses that which can be brought to bear by the criminal system. Accordingly, the order which follows is necessary for the protection of the public.

* * * * *

WHEREFORE, THE FOLLOWING ORDER is hereby made:

Registered nurse license number 405920 issued to respondent Jeffrey F. Vogel is revoked; however, the revocation is stayed and respondent is placed on probation for a period of three (3) years on the following terms and conditions:

1. Respondent shall obey all the laws of the United States, the State of California, and all rules, regulations and laws pertaining to the practice of nursing in this State. A full and detailed account of any and all violations of law shall be reported in writing by respondent to the Board within seventy-two (72) hours of the occurrence. To permit monitoring of compliance with this term, respondent shall submit completed fingerprint cards and fees within 45 days of the effective date of the

Decision, unless previously submitted as part of the licensure application process.

2. Respondent shall fully comply with the terms and conditions of the probation program established by the Board and cooperate with representatives of the Board in its monitoring and investigation of respondent's compliance with the program. Respondent shall inform the Board in writing within no more than 15 days of any address change and shall at all times maintain an active, current license status with the Board, including during any period of suspension.

3. Respondent shall report in person to such meetings as the Board or its designated representatives may reasonably direct.

4. Periods of residency or practice outside of California will not apply to the reduction of the probationary term. Respondent must provide written notice to the Board within 15 days of any change of residency or practice outside the state.

5. Respondent shall submit such written reports and verification of actions as are reasonably required by the Board. These declarations shall contain statements relative to respondent's compliance with all the terms and conditions of the Board's Probation Program. Respondent shall immediately execute all release of information forms as may be required by the Board or its representatives.

6. Respondent shall engage in the practice of professional nursing in California for a minimum of 24 hours per week (or any other number of hours approved by the Board) for six consecutive months. In accordance with Business and Professions Code section 2732, no person shall engage in the practice of registered nursing without holding a license which is in an active status.

7. The Board shall be informed of and approve of each agency for which respondent provides nursing services prior to respondent's commencement of work. Respondent shall inform his employer of the reason for and the terms and conditions of probation and shall provide a copy of the Board's decision and

order to his employer and immediate supervisor. The employer shall submit performance evaluations and other reports as requested by the Board. Respondent is also required to notify the Board in writing within seventy-two (72) hours after termination of any nursing employment. Any notification of termination shall contain a full explanation of the circumstances surrounding it.

8. The Board shall be informed of and approve of the level of supervision provided to the respondent while he is functioning as a registered nurse. The appropriate level of supervision must be approved by the Board prior to commencement of work. Respondent shall practice only under the direct supervision of a registered nurse in good standing (no current discipline) with the Board of Registered Nursing.

9. Respondent may not work for a nurse registry, a temporary nurse agency, a home care agency, an in-house nursing pool, as a nursing supervisor, as a faculty member in an approved school of nursing, or as an instructor in a Board-approved continuing education program. Respondent must work only on regularly-assigned, identified and predetermined worksite(s) with appropriate supervision as approved by the Board.

10. Respondent at his expense shall begin and successfully complete a course in nursing as directed by the Board within one year from the effective date of this decision. Respondent must submit written proof of successful completion to the Board. Transcripts or certificates of completion must be mailed directly to the Board by the agency or entity instructing respondent. Home study or correspondence courses are not acceptable and will not be approved.

11. Respondent shall pay to the Board costs associated with its investigation and enforcement pursuant to Business and Professions Code section 125.3 in the amount of \$2,361.50. Respondent shall be permitted to pay these costs in a payment plan approved by the Board, with payments to be completed no later than three months prior to the end of the probation term.

12. If respondent violates the terms and conditions of probation, the Board may, after giving respondent notice and an opportunity to be heard, set aside the stay order and reinstate

the revocation or take such other action as the Board deems just and reasonable in its discretion. The period of probation shall automatically be extended and shall not expire until any accusation relating to such violation has been acted upon by the Board.

13. Respondent shall within 45 days of the effective date of this decision, have a chemical dependency evaluation performed by a alcohol and chemical dependency counselor approved by the board. The examining counselor shall submit a written report of his or her assessment and recommendations to the Board. All costs are the responsibility of the respondent. Recommendations for treatment, recovery, or counseling made as a result of the examination shall be instituted, followed, and completed by respondent.

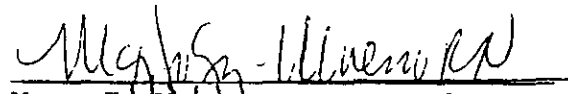
14. Respondent, at his expense, shall participate in a random, biological fluid testing or a drug screening program that the Board approves. The length of time and frequency will be subject to approval by the Board. Respondent is responsible for keeping the Board informed of respondent's current telephone number at all times and for ensuring that reports are submitted directly by the testing agency to the Board, as directed. Any confirmed positive finding shall be reported immediately to the Board by the program, and respondent shall be considered in violation of probation.

15. Respondent shall, within 45 days of the effective date of this decision, have a mental health examination including psychological testing as appropriate and to determine his capacity to perform the duties of a registered nurse. The examination shall be performed by a psychiatrist, psychologist, or other licensed mental health practitioner approved by the Board. The examining mental health practitioner will submit a written report of that assessment and recommendations, to the Board. Additionally, the report must specifically address respondent's violent conduct towards Ms. Toni Martin. All costs are the responsibility of respondent. Recommendations for treatment, therapy, or counseling made as a result of the mental health examination shall be instituted and followed by respondent.

16. Should respondent comply with all of the above terms and conditions, respondent's license shall be fully restored at the end of probation.

This Decision becomes effective on March 23, 1997.

DATED: February 21, 1997 .



Mary Jo Moreno-Gorney, PhD, RN
President
Board of Registered Nursing

1 DANIEL E. LUNGREN, Attorney General
of the State of California
2 STEPHEN S. HANDIN, State Bar No. 71100
Deputy Attorney General
3 300 South Spring Street, Suite 500
Los Angeles, California 90013
4 Telephone: (213) 897-2538

5 Attorneys for Complainant

6
7
8 BEFORE THE
BOARD OF REGISTERED NURSING
9 DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA
10

11
12 In the Matter of the Accusation) NO. 96-79
Against:)
13)
JEFFREY F. VOGEL, also known as) ACCUSATION
14 JEFFREY FLOYCE VOGEL, also known as)
JEFF VOGEL)
15 4590 Arizona Street)
Atascadero, California 93422)
16 Registered Nurse License No. 405920)
17 Respondent.)
18

19 Ruth Ann Terry, M.P.H., R.N., as causes for discipline,
20 alleges:
21

22 1. Complainant Ruth Ann Terry, M.P.H., R.N., makes
23 and files this accusation in her official capacity as Executive
24 Officer, Board of Registered Nursing, Department of Consumer
25 Affairs.

26 ///

27 ///

1 2. On September 30, 1986, the Board of Registered
2 Nursing issued registered nurse license number 405920 to Jeffrey
3 F. Vogel, also known as Jeffrey Floyce Vogel, also known as
4 Jeff Vogel (hereinafter referred to as respondent). The license
5 was in full force and effect at all times relevant herein and
6 will expire on January 31, 1996, unless renewed.

7
8 3. Under Business and Professions Code section 2750,
9 the Board of Registered Nursing may discipline any licensee,
10 including a licensee holding a temporary or an inactive license,
11 for any reason provided in Article 3 of the Nursing Practice Act.

12 Under Business and Professions Code section 490, the
13 board may suspend or revoke a license on the ground that the
14 licensee has been convicted of a crime substantially related to
15 the qualifications, functions, or duties of a registered nurse.

16 Under Business and Professions Code section 125.3, the
17 Board may request the administrative law judge to direct a
18 licensee found to have committed a violation or violations of
19 the licensing act to pay a sum not to exceed the reasonable costs
20 of the investigation and enforcement of the case.

21
22 4. Respondent has subjected his license to discipline
23 under Business and Professions Code section 2761(f) in that on or
24 about September 1, 1994, in the Municipal Court of San Luis
25 Obispo County (*People v. Jeffrey Floyce Vogel*, Case No. F217853),
26 he was convicted by the court on his plea of *nolo contendere* to
27 violation of Penal Code section 417(A)(2) (drawing or exhibiting

1 a firearm), a misdemeanor, and violation of Penal Code
2 section 273.5(A) (inflicting corporal injury upon a spouse or
3 cohabitant), a misdemeanor. The circumstances of the crimes are
4 that on or about July 10, 1994, in the County of San Luis Obispo,
5 during a altercation between respondent and his girlfriend,
6 respondent pointed a firearm at Gary Thurston, a friend of his
7 girlfriend's son, and hit his girlfriend in the face.

8 These acts are substantially related to the
9 qualifications, functions, or duties of a registered nurse as
10 forth in Title 16, California Code of Regulations, section 1444,
11 in that they show a conscious disregard for public health,
12 safety, and welfare.

13
14 5. Respondent has subjected his license to discipline
15 under Business and Professions Code section 2761(a) on the
16 grounds of unprofessional conduct in that on or about July 10,
17 1994, he drew and exhibited a firearm in a rude, angry, and
18 threatening manner, putting the lives of others at risk. Such
19 conduct evidences a conscious disregard for the health, safety,
20 and welfare of others.

21
22 6. Respondent has subjected his license to discipline
23 under Business and Professions Code section 490 in that on or
24 about September 1, 1994, he was convicted of a crime
25 substantially related to the qualifications, functions, or duties
26 of a registered nurse, as set forth in paragraph 4, above.

27 ///

WHEREFORE, complainant prays a hearing be had and that the Board of Registered Nursing make its order:

1. Revoking or suspending registered nurse license number 405920, issued to Jeffrey F. Vogel, also known as Jeffrey Floyce Vogel, also known as Jeff Vogel.

2. Ordering Jeffrey F. Vogel to pay to the Board its costs and charges in investigating and enforcing the case according to proof at the hearing pursuant to Business and Professions Code section 125.3.

3. Taking such other and further action as may be deemed proper and appropriate.

DATED: 1-12-96

RUTH ANN TERRY, M.P.H., R.N.
Executive Director
Board of Registered Nursing
Department of Consumer Affairs
State of California

Complainant

03579110-
LA95AD2221
951228.MH